

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1, 2 and 4-29 were pending in this application. No claims are amended, canceled, or added by this Response. Accordingly, claims 1, 2, and 4-29 will remain pending.

In the Office Action mailed January 28, 2008, claims 1, 2 and 4-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0035004 to Dove et al. ("Dove"), U.S. Publication No. 2002/0196283 to Petruk et al. ("Petruk") and an article titled "Integration of the Rheometer into Today's Formulation Laboratories," by A. Franck, published June, 2002 ("Franck"). To the extent that these rejections may still be applied to the claims currently pending in this application, they are respectfully traversed.

Applicants respectfully submit that the rejections under § 103 must be withdrawn since the Franck article describes the inventors' own work and was published less than one year prior to the effective filing date of the present application. A Declaration pursuant to 37 C.F.R. § 1.132 is being submitted herewith on behalf of John P. Berting, one of the named inventors of the present application.

As stated in the Declaration, the Franck article describes products that are the work of the present inventors. All of the inventors and the author of the article were, at the time the article was published, employed by Rheometric Scientific, Inc. ("Rheometric"), the company that is described as the source of the described products. In early 2003, the assignee of the present application, Waters Corporation ("Waters") acquired Rheometric along with the rights to the products described in the Franck article and which is the subject of the present invention.

Accordingly, since the Franck article describes the Applicants' own work and was published in June 2002, less than one year prior to the effective filing date of March 14, 2003, the Franck article does not qualify as prior art and cannot be used in rejections against the currently pending claims. *See* MPEP §§ 716.10, 2136.05. For at least this reason, all pending claims are allowable.

The disqualification of the Franck reference notwithstanding, Dove and Petruk fail to disclose, teach, or suggest the claimed invention. Neither Dove nor Petruk mention the applicability of the systems for controlling the operation of a rheometer and for configuring a rheometer as claimed. Further, it would not be obvious to use the combination of Dove and Petruk to control the operation of a rheometer.

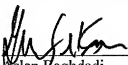
In view of the foregoing, all of the claims pending in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.

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Respectfully submitted,

GREHLINGER ET AL.

Date: April 28, 2008

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Attachment: Declaration pursuant to 37 C.F.R. § 1.132

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